

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

LATOYA PORTER-SUMMEY,

Plaintiff,

CASE NO. 03-CV-10050-BC

v.

DISTRICT JUDGE DAVID M. LAWSON
MAGISTRATE JUDGE CHARLES BINDER

UNITED STATES DEPARTMENT
OF THE ARMY, HONORABLE
THOMAS E. WHITE, Secretary,

Defendants.

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
ON DEFENDANTS' MOTION TO DISMISS AND FOR SUMMARY JUDGMENT**

(Dkt. 10)

I. RECOMMENDATION

For the reasons set forth by counsel during the telephone conference held on June 16, 2006, **IT IS RECOMMENDED** that Defendants' Motion to Dismiss and for Summary Judgment be **DENIED WITHOUT PREJUDICE**.

IT IS FURTHER RECOMMENDED that either party be allowed to file any motions deemed appropriate within 60 days of the date of this Report and Recommendation.

II. REPORT

By order of U.S. District Judge David M. Lawson, this case was referred to the undersigned Magistrate Judge for general case management on May 25, 2006. (Dkt. 19.) Pending is the above-entitled motion. Plaintiff has filed a response (Dkt. 11), and Defendants have filed a reply (Dkt.

12). Upon review, I conclude that pursuant to E.D. Mich. LR 7.1(e)(2), this motion is ready for Report and Recommendation.

III. REVIEW

The parties to this action may object to and seek review of this Report and Recommendation within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985); *Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The parties are advised that making some objections, but failing to raise others, will not preserve all the objections a party may have to this Report and Recommendation. *Willis v. Sec'y of Health & Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

s/ Charles E Binder

CHARLES E. BINDER
United States Magistrate Judge

Dated: June 28, 2006

CERTIFICATION

I hereby certify that this Report and Recommendation was electronically filed this date, electronically served on Susan K. DeClercq, L. Fallasha Erwin and Nancy B. Pridgen, and served in the traditional manner on Honorable David M. Lawson.

Dated: June 28, 2006

By s/Mary E. Dobbick
Secretary to Magistrate Judge Binder